

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

LANDIS MOBLEY AND
WANDALENE MOBLEY

Plaintiffs,

V.

GENERAL MOTORS LLC

Defendant.

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CIVIL ACTION NO. _____

JURY DEMANDED

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to the terms and provisions of 28 U.S.C. §§ 1441 and 1446, General Motors LLC ("GM"), Defendant in the cause styled "*Landis Mobley and Wandalene Mobley v. General Motors LLC*," originally pending as Cause No. 10704, in the 62nd Judicial District Court of Delta County, Texas, files this Notice of Removal of the cause to the United States District Court for the Eastern District of Texas, Sherman Division.

I.

BASIS FOR REMOVAL – DIVERSITY JURISDICTION

The basis of the removal of this action is diversity jurisdiction under 28 U.S.C. § 1332. Diversity jurisdiction exists because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and there is complete diversity of citizenship between Plaintiffs and the Defendant. 28 U.S.C. § 1332.

II.
CITIZENSHIP OF PLAINTIFFS

According to Plaintiffs' Original Petition, Plaintiffs at the time of the initial filing of this action and at the current time of the removal of this action are citizens and residents of the State of Texas.

III.
CITIZENSHIP OF DEFENDANT

Defendant General Motors LLC, at the time of the initial filing of this action and at the current time of the removal of this action, is a limited liability company organized under the laws of the State of Delaware with its principal place of business in the State of Michigan. The sole member of GM is General Motors Holdings LLC, a Delaware limited liability company with its principal place of business in Michigan. The sole member of General Motors Holdings LLC is General Motors Company, a Delaware corporation with its principal place of business in the State of Michigan. Thus, GM is a citizen of the States of Delaware and Michigan for purposes of determining diversity of citizenship. 28 U.S.C. § 1332(c)(1).

IV.
AMOUNT IN CONTROVERSY

This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. The amount in controversy is in excess of \$75,000, exclusive of interest and costs. A removing party may show the amount in controversy is met in one of two ways: (1) by demonstrating that it is “facially apparent” from the petition that the claim likely exceeds \$75,000 or (2) “by setting forth the facts in controversy-preferably in the removal petition, but sometimes by affidavit-that support a finding of the requisite amount.” *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995). According

to Plaintiffs' Original Petition, Plaintiffs' are "seeking monetary relief of over \$1,000,000, excluding costs, prejudgment interest, and attorneys' fees."

V.
NATURE OF THE CASE

This case arises out of an accident that occurred on November 23, 2011, in Delta County, Texas. On that date, Plaintiff Landis Mobley was driving a 2011 Buick Lucerne and Plaintiff Wandalene Mobley was a passenger ("vehicle in question") when they struck the back of another vehicle.

Plaintiffs filed their Original Petition on August 9, 2013. Plaintiffs assert product liability claims against GM based on strict liability and negligence. Plaintiffs allege that the vehicle in question was not reasonably crashworthy, and specifically allege that the front airbags did not deploy. Plaintiffs allege pain and suffering, extreme emotional distress, mental anguish, impairment, disfigurement, interference with their daily activities, and a reduced capacity to enjoy life as a result of their injuries.

VI.
JURY DEMAND

GM hereby demands that a jury be empaneled to try the facts and issues of this case.

VII.
REMOVAL IS TIMELY

GM's counsel was served with process on August 28, 2013. Pursuant to 28 U.S.C. § 1446(b), GM timely filed this Notice of Removal within thirty days of its receipt of this paper indicating that this case is removable. Further, more than one year has not passed since the commencement of the action in state court. 28 U.S.C. § 1446.

VIII.
NOTICE TO THE STATE COURT

GM would show it has filed and/or will file with the Clerk of the 62nd Judicial District Court of Delta County, Texas, a Notice of Removal to Federal Court simultaneously with/or immediately after the filing of this Notice of Removal.

IX.
STATE COURT PLEADINGS PROVIDED

Pursuant to 28 U.S.C. § 1446(a), a certified copy of the state court docket sheet is attached, along with copies of Plaintiff's Original Petition and GM's Original Answer filed in state court, are attached to this Notice.

WHEREFORE, PREMISES CONSIDERED, Defendant General Motors LLC respectfully requests this Notice of Removal of Action be filed; that the civil action pending in the 62nd Judicial District Court of Delta County, Texas with Cause No. 10704 be removed to and proceed in this Court; that no further proceedings be had in the 62nd Judicial District Court of Delta County, Texas; and for any further relief, both at law or in equity, to which GM shall show themselves justly entitled.

Respectfully submitted,

/s/ J. Karl Viehman

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded to all known counsel of record in accordance with the Federal Rules of Civil Procedure on the 27th day of September, 2013.

/s/ J. Karl Viehman